

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF NEW YORK

SANTOS VELEZ,

Plaintiff,

-against-

9:05-CV-342  
(LEK/GJD)

M.T. GULDAN, DDS; N. SMITH, Nurse  
Administrator; and SUPERINTENDENT  
WOODS,

Defendants.

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**DECISION AND ORDER**

This matter comes before the Court following a Report-Recommendation filed on September 11, 2008, by the Honorable Gustave J. DiBianco, United States Magistrate Judge, pursuant to 28 U.S.C. § 636(b) and L.R. 72.3(c) of the Northern District of New York. Report-Rec. (Dkt. No. 54).

Within ten days, excluding weekends and holidays, after a party has been served with a copy of a Magistrate Judge's Report-Recommendation, the party "may serve and file specific, written objections to the proposed findings and recommendations," FED. R. CIV. P. 72(b), in compliance with L.R. 72.1. No objections have been raised in the allotted time with respect to Judge DiBianco's Report-Recommendation. Furthermore, after examining the record, the Court has determined that the Report-Recommendation is not subject to attack for plain error or manifest injustice.

Accordingly, it is hereby

**ORDERED**, that the Report-Recommendation (Dkt. No. 54) is **APPROVED** and **ADOPTED** in its **ENTIRETY**; and it is further

**ORDERED**, that Defendants' Motion for summary judgment (Dkt. No. 43) is **GRANTED** with respect to all claims against Defendants Nurse Administrator Smith and Superintendent Woods; and it is further

**ORDERED**, that Defendants' Motion for summary judgment (Dkt. No. 43) is **DENIED** with respect to Plaintiff's first claim against Defendant Dr. Guldán, that the 25-month delay in treatment constituted deliberate indifference to a serious medical need; and it is further

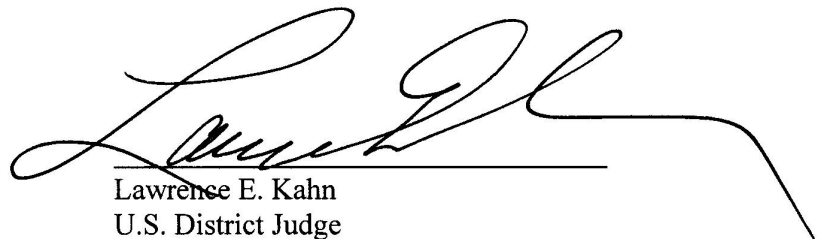
**ORDERED**, that Defendants' Motion for summary judgment (Dkt. No. 43) is **GRANTED** with respect to Plaintiff's second claim against Dr. Guldán, that the dental care received by Plaintiff after November 2004 was inadequate and deliberately indifferent to a serious medical need; and it is further

**ORDERED**, that Plaintiff's cross-Motion for summary judgment (Dkt. No. 53) is **DENIED** in all respects; and it is further

**ORDERED**, that the Clerk serve a copy of this Order on all parties.

**IT IS SO ORDERED.**

DATED: September 26, 2008  
Albany, New York



Lawrence E. Kahn  
U.S. District Judge